

# EXHIBIT F

**From:** [kapaloski.tammy@dorsey.com](mailto:kapaloski.tammy@dorsey.com)  
**To:** [Patrick McGill](#); [Martin Bader](#); [Jesse Salen](#); [ebutler@parsonsbehle.com](mailto:ebutler@parsonsbehle.com); [NThomas@parsonsbehle.com](mailto:NThomas@parsonsbehle.com)  
**Cc:** [foster.brett@dorsey.com](mailto:foster.brett@dorsey.com)  
**Subject:** RE: Marketstar's Objections to Subpoena  
**Date:** Friday, January 20, 2023 3:07:09 PM

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Patrick,

Marketstar served objections to Blendjet's subpoena on January 3, thus Marketstar is not required to "search for and produce" any documents as you contend nor is it required to provide you with any "further context" regarding request number 6. Marketstar stands on its objections, and declines your demands made in the email below.

As you know, before Blendjet issued its improper subpoena to Marketstar, Blendtec agreed to produce emails from Mr. Titus' and Mr. Kaufman's Marketstar email accounts during the ESI custodian conferral process. That agreement has nothing to do with Blendjet's subpoena to Marketstar. Blendtec will not be producing the Marketstar emails for Mr. Titus and Mr. Kaufman "in response to Request Nos. 4-5" of the subpoena as you incorrectly claim below. Rather, those emails will be part of Blendtec's email production in connection with Blendjet's email production requests.

Marketstar has objected to Blendjet's subpoena in full and has no further obligation with respect to your subpoena at this time.

Regards,  
Tammy

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**From:** Patrick McGill <[PMcGill@sheppardmullin.com](mailto:PMcGill@sheppardmullin.com)>  
**Sent:** Wednesday, January 18, 2023 5:45 PM  
**To:** Kapaloski, Tammy <[kapaloski.tammy@dorsey.com](mailto:kapaloski.tammy@dorsey.com)>  
**Cc:** Foster, Brett <[foster.brett@dorsey.com](mailto:foster.brett@dorsey.com)>; [ebutler@parsonsbehle.com](mailto:ebutler@parsonsbehle.com); Martin Bader <[MBader@sheppardmullin.com](mailto:MBader@sheppardmullin.com)>; [NThomas@parsonsbehle.com](mailto:NThomas@parsonsbehle.com); Jesse Salen <[JSalen@sheppardmullin.com](mailto:JSalen@sheppardmullin.com)>  
**Subject:** RE: Marketstar's Objections to Subpoena

EXTERNAL FROM OUTSIDE DORSEY. BE CAUTIOUS OF LINKS AND ATTACHMENTS.

Tammy,

We appreciate your agreement to search Mr. Titus's and Mr. Kaufman's MarketStar email accounts for responsive documents.

A run-down of each individual request in the MarketStar subpoena, in light of the representations and statements in your email below, follows. We propose the parties confer regarding these topics this week, if possible, to resolve on a plan for MarketStar to adequately respond to the subpoena without necessitating further litigation related thereto.

- Request Nos. 1, 7-12: MarketStar must search for and produce any materials in its possession, custody or control that are responsive to Request Nos. 1 and 7-12 – which are relevant to the claims and defenses in this action. Once MarketStar has conducted a search

for such materials, if it represents that all responsive materials are duplicative of those otherwise in Blendtec's possession, custody, or control (*and* those materials have been already produced in this action by Blendtec), then we will not require MarketStar to produce such materials a second time.

- Request Nos. 2-3: If MarketStar has performed a search for all documents responsive to Request Nos. 2-3, and represents that all responsive materials are duplicative of those otherwise in Blendtec's possession, custody, or control (and have been already produced in this action by Blendtec), then MarketStar will not be required to re-produce such materials.
- Request No. 4-5: Please immediately commence your search of Mr. Titus's and Mr. Kaufman's MarketStar email accounts, using the search terms that BlendJet has provided to Blendtec for those custodians, in response to Request Nos. 4-5 – and produce such materials under the Standard Protective Order. However, those individuals' emails do not constitute all documentation responsive to Request Nos. 4-5. For example, any agreements between those individuals and Blendtec – or between MarketStar and Blendtec – related to their work for Blendtec are relevant and responsive and should be produced (as Blendtec has not produced any such materials to date). Further, those individuals' non-email custodial ESI would also be covered by these Requests, and should be produced if responsive.
- Request No. 6: Some further context in relation to the subject matter of Request No. 6 would be helpful in finding a way forward with respect to this request. Is there anyone at MarketStar (apart from Messrs. Titus and Kaufman) who would have generated documentation responsive to Request No. 6?

Please respond and/or provide your availability this week to confer regarding these issues.

Sincerely,  
Patrick

**Patrick M. McGill**

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**From:** [kapaloski.tammy@dorsey.com](mailto:kapaloski.tammy@dorsey.com) <[kapaloski.tammy@dorsey.com](mailto:kapaloski.tammy@dorsey.com)>

**Sent:** Thursday, January 5, 2023 9:51 AM

**To:** Patrick McGill <[PMcGill@sheppardmullin.com](mailto:PMcGill@sheppardmullin.com)>; Martin Bader <[MBader@sheppardmullin.com](mailto:MBader@sheppardmullin.com)>; [NThomas@parsonsbehle.com](mailto:NThomas@parsonsbehle.com); [ebutler@parsonsbehle.com](mailto:ebutler@parsonsbehle.com)

**Cc:** [foster.brett@dorsey.com](mailto:foster.brett@dorsey.com)

**Subject:** RE: Marketstar's Objections to Subpoena

Patrick,

D&W has been engaged to represent Marketstar in connection with the Blendjet subpoena.

During the meet and confer process on ESI custodians, we offered to produce emails from both the Marketstar email account and the Blendtec email account used by Keith Titus and Ben Kaufman in connection with Blendtec work and matters. As we have indicated, our understanding is that Keith Titus uses a Blendtec email account for all Blendtec matters and that Mr. Kaufman often uses his Marketstar email account for Blendtec work. Regardless, we agreed to search both email accounts for these two men in connection with Blendjet's email production requests to avoid the very discovery dispute your Marketstar subpoena has created. We were disappointed to see that, despite this, Blendjet issued the Marketstar subpoena in an attempt to get around the ESI Protocol and party discovery procedures.

Blendtec does not have possession, custody, or control of Marketstar emails or other documents. However, because of the unique roles of Mr. Titus and Mr. Kaufman, we would be able to get access to both men's Marketstar accounts to search for emails responsive to Blendjet's search terms for Mr. Titus and Mr. Kaufman. We also believe that a majority of the documents that Blendjet has requested in its subpoena to Marketstar are independently (or solely) in Blendtec's possession, custody, or control. For example, Request No. 2 seeks documents related to agreements between Marketstar and Blendtec. Although we do not see the relevance of these documents, as Blendtec is a party to these agreements, they would be within in Blendtec's control. Similarly Request No. 3 asks for all searches or monitoring reports related to the Blendtec Marks. Any search reports related to the Blendtec Marks are in Blendtec's control. [REDACTED]

[REDACTED] Similarly, any communications between Marketstar employees and Blendtec employees (Request Nos. 4-6) would also be in Blendtec's control as Blendtec is a party to those communications.

We remaining willing to search Mr. Titus' and Mr. Kaufman's MarketStar email accounts for Blendtec related emails to resolve MarketStar subpoena issue. That is a reasonable resolution of the MarketStar subpoena issue. Beyond this, the subpoena is highly objectionable.

Regards,  
Tammy

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**From:** Patrick McGill <[PMcGill@sheppardmullin.com](mailto:PMcGill@sheppardmullin.com)>  
**Sent:** Wednesday, January 4, 2023 9:05 AM  
**To:** Kapaloski, Tammy <[kapaloski.tammy@dorsey.com](mailto:kapaloski.tammy@dorsey.com)>; Martin Bader <[MBader@sheppardmullin.com](mailto:MBader@sheppardmullin.com)>; [NThomas@parsonsbehle.com](mailto:NThomas@parsonsbehle.com); [ebutler@parsonsbehle.com](mailto:ebutler@parsonsbehle.com)  
**Cc:** Foster, Brett <[foster.brett@dorsey.com](mailto:foster.brett@dorsey.com)>  
**Subject:** RE: Marketstar's Objections to Subpoena

EXTERNAL FROM OUTSIDE DORSEY. BE CAUTIOUS OF LINKS AND ATTACHMENTS.

Tammy,

Thank you for sending these objections to us on behalf of MarketStar. For the sake of clarity, has Dorsey & Whitney (and namely, yourself, Brett, and Grant) been engaged to represent MarketStar in

connection with its response to BlendJet's subpoena?

Additionally, MarketStar's objections muddy the water with respect to the scope of MarketStar-related documentation that Blendtec has agreed to produce. It was our understanding after our telephonic conference on Dec. 19 that Blendtec has agreed to produce Mr. Titus's and/or Mr. Kaufman's emails that come from their respective MarketStar email addresses, but *only* those emails that are in Blendtec's possession in the first instance. In other words, if Blendtec possesses responsive emails that contain search term hits that were sent by or to Mr. Titus and/or Mr. Kaufman, Blendtec will produce those emails regardless of whether they come from or are sent to those individuals' Blendtec or MarketStar email addresses. It is not our impression, however, that Blendtec has agreed to produce *internal* MarketStar materials that may be responsive to BlendJet's requests for production or contain search term hits.

Please clarify Blendtec's and/or MarketStar's position on these matters.

Sincerely,  
Patrick

**Patrick M. McGill**

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**Sent:** Tuesday, January 3, 2023 6:39 PM

**To:** Patrick McGill <[PMcGill@sheppardmullin.com](mailto:PMcGill@sheppardmullin.com)>; Martin Bader <[MBader@sheppardmullin.com](mailto:MBader@sheppardmullin.com)>;  
[NThomas@parsonsbehle.com](mailto:NThomas@parsonsbehle.com); [ebutler@parsonsbehle.com](mailto:ebutler@parsonsbehle.com)

**Cc:** [foster.brett@dorsey.com](mailto:foster.brett@dorsey.com)

**Subject:** Marketstar's Objections to Subpoena

Counsel,

Please see the attached objections which we are serving on behalf of Marketstar.

Regards,  
Tammy

**Attention:** This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.